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**UNITED STATES DISTRICT COURT**  
**NORTHERN DISTRICT OF CALIFORNIA**  
**SAN JOSE DIVISION**

GENENTECH, INC.,  
 Plaintiff,

vs.

THE TRUSTEES OF THE UNIVERSITY OF  
 PENNSYLVANIA, a Pennsylvania non-profit  
 corporation,  
 Defendant.

) Case No: 5:10-CV-2037-LHK (PSG)  
 )  
 ) **FINAL JOINT STIPULATION AND**  
 ) **[PROPOSED] ORDER REGARDING**  
 ) **COURT'S NOVEMBER 22 ORDER**  
 )  
 ) **Hearing Date: TBD**  
 ) **Time: TBD**  
 ) **Judge: Hon. Lucy H. Koh**  
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1 WHEREAS on March 1, 2011, plaintiff Genentech, Inc. ("Genentech") and defendant the  
2 Trustees of the University of Pennsylvania ("the University") filed a Seventh Joint Stipulation and  
3 Proposed Order to Extend the Deadline for Genentech to File Objections to the Court's November  
4 22 Order (Dkt. No. 113) to March 8, 2011; and

5 WHEREAS the parties wanted the deadline extension to discuss whether there is a way to  
6 limit Genentech's production of regulatory materials, other than the BLA Submissions (as that term  
7 is used in the Court's November 22 Order), to avoid the production of irrelevant materials; and

8 WHEREAS, the parties have reached a final resolution concerning these regulatory  
9 materials;

10 THE PARTIES THEREFORE AGREE as follows:

- 11 1. Genentech will make a rolling production of the materials listed in the regulatory  
12 index provided to counsel for the University of Pennsylvania on December 15, 2010,  
13 with the production to be completed by March 31, 2011.
- 14 2. Genentech will produce the records on a hard drive for inspection, with a proper  
15 designation under the Protective Order in this action. Genentech will not OCR or  
16 Bates label individual documents. The records will be organized and archived in a  
17 manner that will permit counsel for the University of Pennsylvania to identify and  
18 retrieve the materials listed in the December 15, 2010 index.
- 19 3. If, after inspection, the University of Pennsylvania determines that it desires to use  
20 any of the records in this litigation, counsel will identify such records to counsel for  
21 Genentech, who will ensure that they are Bates labeled and promptly will produce  
22 them to the University of Pennsylvania in Bates labeled form. No records may be  
23 used as evidence by the University of Pennsylvania until they are identified to  
24 counsel and receive a Bates label. The University of Pennsylvania, further, will  
25 reimburse Genentech for one-half of the actual reasonable cost of having its vendor  
26 process all records that must be processed according to this paragraph.  
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- 1           4.     Any documents that are protected by attorney client privilege or work product  
2                 immunity, but are inadvertently produced during the production process, will be  
3                 returned to Genentech immediately upon written notice to counsel for the University  
4                 of Pennsylvania that such inadvertent production has occurred. Return under this  
5                 paragraph does not relieve Genentech of the obligation to provide a privilege log for  
6                 such documents nor limit the University's ability to challenge any privilege assertion  
7                 on any ground other than their inadvertent production as part of the process provided  
8                 for herein.
- 9           5.     This production shall constitute compliance with Document Request No. 36  
10                propounded by the University of Pennsylvania, subject to any supplementation  
11                required under Federal Rules.

12  
13 SO STIPULATED:

14  
15                                 Respectfully submitted,

16  
17 Dated: March 7, 2011

SIDLEY AUSTIN LLP

18  
19 By: \_\_\_\_\_/s/

20 M. PATRICIA THAYER

21 Attorneys for Plaintiff GENENTECH, INC.  
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1 Dated: March 7, 2011

IRELL & MANELLA LLP

2  
3 By: \_\_\_\_\_/s/

4 GARY N. FRISCHLING<sup>1</sup>

5 Attorneys for Defendant THE TRUSTEES OF  
6 THE UNIVERSITY OF PENNSYLVANIA  
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27 <sup>1</sup> Pursuant to General Order 45(X), the filer of this document hereby attests that concurrence in the filing of the  
28 document has been obtained from Gary N. Frischling.

1 SO ORDERED.

2  
3 Dated: March 11, 2011

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LUCY H. KOH  
United States District Judge